

Rule 2002-4

NEGATIVE NOTICE PROCEDURE

(a) The following motions, objections, and other matters may be considered by the Court without an actual hearing under the negative notice procedure described in this rule if no party in interest requests a hearing:

(1) Motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to Fed. R. Bankr. P. 4001(d).

(2) Motions to avoid liens on exempt property pursuant to Fed R. Bankr. P. 4003(d).

(3) Motions to use, sell, or lease property not in the ordinary course of business pursuant to Fed. R. Bankr. P. 6004(a) but not motions to sell property free and clear of liens or other interests pursuant to Fed. R. Bankr. P. 6004(c).

(4) Notices of abandonment pursuant to Fed. R. Bankr. P. 6007(a) and motions to compel abandonment pursuant to Fed. R. Bankr. P. 6007(b).

(5) Motions to approve compromises or settlements pursuant to Fed. R. Bankr. P. 9019(a).

(6) Other motions, objections, and matters if permitted by the presiding judge.

(b) Motions, objections, and other matters filed pursuant to this negative notice procedure shall:

(1) Be served in the manner and on the parties as required by the provisions of the Federal Rules of Bankruptcy Procedure, Local Rule, or any order of Court applicable to motions, objections, or matters of the type made and shall be filed with the proof of such service in accordance with the provisions of Local Rule 7005-1.

(2) To the extent permitted under the Federal Rules of Bankruptcy Procedures, Local Rules, or any order of the Court, a Filing User may make use of these Negative Notice Procedures by serving motions, objections, and other matters by electronic means to any other Filing User or other party who consents to receive service by electronic means.

(3) Contain a negative notice legend prominently displayed on the face of the first page of the paper. The negative notice legend shall be in a form substantially as follows:

**NOTICE OF OPPORTUNITY TO
OBJECT AND FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within [number] days from the date of service of this paper. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at [address] , and serve a copy on the movant's attorney, [name and address, and any other appropriate persons] .

If you file and serve an objection within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

(4) For the purpose of completing the above negative notice legend , the number of days during which parties may object that is placed in the negative notice legend shall be 20 days except:

(i) in the case of motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to Fed. R. Bankr. P. 4001(d), the time shall be 15 days; and

(ii) in the case of objections to proofs of claim pursuant to Fed. R. Bankr. P. 3007, the time shall be 30 days.

(c) In the event a party in interest files an objection within the time permitted in the negative notice legend, the Court may schedule a hearing on the motion, objection, or other matter upon notice to the movant's attorney, the objecting party or parties, and others as may be appropriate.

(d) In the event no party in interest files an objection within the time permitted in the negative notice legend as computed under Fed. R. Bankr. P. 9006(a) and (f), the Court will consider the matter in chambers without further notice or hearing upon the submission by the movant of a proposed form of order granting the relief. The movant shall submit the proposed order not later than ten (10) days after the expiration of the objection period. In the event the movant fails to submit a proposed form of order within this time, the Court may enter an order denying the matter without prejudice for lack of prosecution. In addition to any other requirements, the proposed form of order shall recite that:

(1) The motion, objection, or other matter was served upon all interested parties with the Local Rule 2002-4 negative notice legend informing the parties of their opportunity to object within 20 (or other) days of the date of service;

(2) No party filed an objection within the time permitted; and

(3) The Court therefore considers the matter to be unopposed.

(e) Nothing in this rule is intended to preclude the Court from conducting a hearing on the motion, objection, or other matter even if no objection is filed within the time permitted in the negative notice legend.

Notes of Advisory Committee

2004 Amendment

This amendment corrects the Bankruptcy Rules citation to that of the currently used citation. Further, this amendment under section (b) (2) above allows Filing Users, i.e. those registered with the Court to file pleadings electronically, to take further advantage of using Negative Notice procedures within

the electronic filing environment. Together with other Local Rule changes, these amendments are designed to assist attorneys in fulfilling the new electronic filing requirements. Former section (b) (2) is renumbered to (b)(3).

1997 Amendment

This amendment conforms the existing Local Rules to the uniform numbering system prescribed by the Judicial Conference of the United States and to the model system suggested and approved by the Advisory Committee on Bankruptcy Rules of the Judicial Conference's Committee on Rules of Practice and Procedure. In renumbering the Local Rules to conform to the uniform numbering system, no change in substance is intended. This amendment is effective on April 15, 1997.

This rule was formerly Local Rule 2.19A. The Advisory Committee Notes to the superseded rules may be helpful in interpreting and applying the current rules.

1995 Amendment

The rule codifies the negative notice procedure that has been in use, in varying degrees, in the Court for some time. As authorized by 11 U.S.C. § 102(1), orders required to be entered "after notice and a hearing," or a similar phrase in the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, may be entered without an actual hearing if appropriate notice is given and no party in interest requests a hearing. This rule is intended to give effect to this authorization in those kinds of matters that experience teaches frequently trigger no opposition. The Advisory Committee considers that this rule will substantially enhance the efficiency and economy of the practice in the Court.

Subparagraph (a)(6) contemplates that the list of motions authorized to be made under the negative notice procedure, as set forth in subparagraph (a)(1) through (a)(5), may be expanded if authorized by the presiding judge for matters heard by that judge.

Although the Advisory Committee foresees that the rule will normally be used in connection with motions, it is intended by the drafters that the rule would also apply if a judge authorizes its use in matters in which an objection rather than a motion initiates the matter. For example, if authorized by a judge for matters before that judge, it could apply to objections to proofs of claim under Fed. R. Bankr. P. 3007. In that case, the party filing an objection to claim would be the "movant" and the

objection to claim would be the "motion" for purposes of interpreting and applying the rule.

The rule further contemplates that, when no objection to the motion is filed within the prescribed period, the Court will review the motion for procedural and substantive regularity upon the movant's submission of a proposed form of order granting the motion. The Court may schedule a hearing on the motion if the Court, for any reason, determines that the circumstances make a hearing necessary or desirable.

These amendments were effective on February 15, 1995.



United States Bankruptcy Court
Middle District of Florida
135 W. Central Boulevard
Orlando, Florida 32801
(407) 648-6365



Hon. Arthur B. Briskman

Hon. Karen S. Jennemann

ACCEPTABLE USE OF NEGATIVE NOTICE FOR CHAPTERS 7, 11 & 13

The table below consolidates the appropriate use of negative notice by practitioners as permitted by Local Rule 2002-4. All practitioners are encouraged to use negative notice wherever appropriate but are also reminded of the Court's discretionary authority to set any matter for hearing even if no objection was filed as stated in L.R. 2002-4 (e).

PLEASE NOTE	
Judge Briskman does not permit negative notice in Chapter 11 cases and "operating" Chapter 7 cases. Fee Applications may not be negatively noticed without prior approval of Judge Briskman	
JUDGE BRISKMAN	JUDGE JENNEMANN
Chapter 7 Motions for Relief from Stay – 21 day notice required	Chapter 7 Motions for Relief from Stay – 21 day notice required
NEGATIVE NOTICE IS NOT PERMITTED IN CHAPTER 11 CASES FOR JUDGE BRISKMAN	Motions to Approve Agreements Relating to Relief From Stay, Prohibiting or Conditioning the Use, Sale or Lease of Property, Providing Adequate Protection, Use of Cash Collateral and Obtaining Credit – 15-day notice L.R. 2002-4(a) (1) (b) (3) (i)
Motions to Avoid Lien L.R. 2002-4(a) (2)	Motions to Avoid Lien L.R. 2002-4(a) (2)
Motions to Sell or Lease Property (<i>but not Motions to Sell Property Free and Clear of Liens</i>) L.R. 2002-4 (a) (3)	Motions to Sell or Lease Property (<i>but not Motions to Sell Property Free and Clear of Liens</i>) L.R. 2002-4(a) (3)
Motions to Compel Abandonment & Notices of Abandonment L.R. 2002-4(a) (4)	Motions to Compel Abandonment & Notices of Abandonment L.R. 2002-4(a) (4)
Motions to Approve Compromises or Settlements L.R. 2002-4(a) (5)	Motions to Approve Compromises or Settlements L.R. 2002-4(a) (5)
Motions for Turnover of Property	Motions for Turnover of Property
Motions to Value Property	Motions to Value Property
Motions to Determine Secured Status	Motions to Determine Secured Status
Motions to Redeem	Motions to Redeem
Objections to Claims – 30-day notice required L.R. 2002-4(b) (3) (ii)	Objections to Claims – 30-day notice required L.R. 2002-4(b) (3) (ii)
Objections to Exemptions/Turnover of Property	Objections to Exemptions/Turnover of Property
NOT PERMITTED BY JUDGE BRISKMAN	Motions to Make Payments Outside the Chapter 13 Plan
NOT PERMITTED BY JUDGE BRISKMAN	Motions to Modify Confirmed Chapter 13 Plan
NOT PERMITTED BY JUDGE BRISKMAN	Motions to Reopen